

AMENDED IN SENATE MAY 2, 2006
AMENDED IN SENATE APRIL 18, 2006
AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1812

Introduced by Senator Runner

February 24, 2006

An act to add and repeal Section 820.1 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1812, as amended, Runner. Department of Transportation: surface transportation project delivery pilot program.

Existing law gives the Department of Transportation full possession and control of state highways and associated property. Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, as specified. The secretary is authorized to permit up to 5 states, including California, to participate in the program and California has agreed to that participation.

This bill would, until January 1, 2009, ~~authorize the Director of Transportation to consent~~ *provide that the State of California consents* to the jurisdiction of the *state and* federal courts with regard to the compliance, discharge, or enforcement of the responsibilities assumed pursuant to the surface transportation project delivery pilot program, and would make related provisions. The bill would require the department to submit a specified report to the Legislature by January 1, 2008, relating to the surface transportation project delivery pilot program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 820.1 is added to the Streets and
2 Highways Code, to read:
3 820.1. (a) ~~The director is authorized to consent to the~~
4 ~~jurisdiction of the State of California consents to the jurisdiction~~
5 ~~of the state and~~ federal courts with regard to the compliance,
6 discharge, or enforcement of the responsibilities assumed by the
7 department pursuant to Section 326 of, and subsection (a) of
8 Section 327 of, Title 23 of the United States Code.
9 ~~(b) Consent to the jurisdiction of the federal courts pursuant to~~
10 ~~subdivision (a) shall constitute a waiver of the state's Eleventh~~
11 ~~Amendment protection against lawsuits brought in federal court.~~
12 (b) *In any action brought pursuant to the federal laws*
13 *described in subdivision (a), no immunity from suit may be*
14 *asserted by the department pursuant to the Eleventh Amendment*
15 *to the United States Constitution, and any immunity is hereby*
16 *waived.*
17 (c) *The department shall not delegate any of its*
18 *responsibilities assumed pursuant to the federal laws describe in*
19 *subdivision (a) to any political subdivision of the state or its*
20 *instrumentalities.*
21 (e)
22 (d) The department shall, no later than January 1, 2008, submit
23 a report to the Legislature that includes the following:
24 (1) A comparative analysis of the environmental review
25 process under the National Environmental Policy Act for the 30
26 projects, excluding those projects categorically excluded from
27 environmental review, undertaken immediately preceding the
28 enactment of this section that involved the Federal Highway
29 Administration and the environmental review process for all
30 projects undertaken following the enactment of this section that
31 did not involve the Federal Highway Administration. This
32 analysis should address the following:
33 (A) For each project included in the analysis, the
34 environmental review process under the National Environmental
35 Policy Act, including which state and federal agencies reviewed

1 the environmental documents and the amount of time the
2 documents were reviewed by each agency, shall be described.

3 (B) The points in the environmental review process under the
4 National Environmental Policy Act when project delays occurred
5 and the nature of the delays.

6 (C) The time saved in the environmental review process for
7 projects undertaken following the enactment of this section in
8 comparison to the review process for projects undertaken prior to
9 the enactment of this section. The points in the review process
10 when time was saved.

11 (D) The circumstances when the Federal Highway
12 Administration hindered and facilitated project delivery.

13 (2) All financial costs incurred by the department to assume
14 the responsibilities pursuant to Section 326 of, and subsection (a)
15 of Section 327 of, Title 23 of the United States Code, including,
16 but not limited to the following:

17 (A) Personnel to conduct and review environmental
18 documents and to manage litigation.

19 (B) Administrative costs.

20 (C) Litigation.

21 (3) An explanation of all litigation initiated against the
22 department for the responsibilities assumed pursuant to Section
23 326 of, and subsection (a) of Section 327 of, Title 23 of the
24 United States Code.

25 (4) A comparison of all costs and benefits of assuming these
26 responsibilities.

27 ~~(d)~~

28 (e) This section shall remain in effect only until January 1,
29 2009, and as of that date is repealed, unless a later enacted
30 statute, that is enacted before January 1, 2009, deletes or extends
31 that date. ~~However, any waiver pursuant to subdivision (b) shall~~
32 ~~remain in effect for any responsibility carried out by the state~~
33 ~~prior to the repeal of this section under this subdivision. The state~~
34 ~~shall remain liable for any decisions made or responsibilities~~
35 ~~assumed and exercised, prior to the repeal of this section under~~
36 ~~this subdivision, pursuant to applicable federal statutes of~~
37 ~~limitation for filing citizens' suits in federal court.~~